

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

FEDERAL TRADE COMMISSION,
STATE OF CALIFORNIA, STATE OF
COLORADO, STATE OF ILLINOIS,
STATE OF INDIANA, STATE OF
IOWA, STATE OF MINNESOTA,
STATE OF NEBRASKA, STATE OF
OREGON, STATE OF TEXAS, and
STATE OF WISCONSIN,

Plaintiffs,

v.

SYNGENTA CROP PROTECTION AG,
SYNGENTA CORPORATION,
SYNGENTA CROP PROTECTION,
LLC, and CORTEVA, INC.,

Defendants.

Case No. 22-cv-828

**PLAINTIFF FEDERAL TRADE
COMMISSION'S MOTION TO FILE
PORTIONS OF THE COMPLAINT
TEMPORARILY UNDER SEAL**

Plaintiff Federal Trade Commission ("FTC") respectfully moves pursuant to LR 5.4(c)(1)(a) and LR 5.4(c)(4)(b) to file portions of the Complaint in this action temporarily under seal for fourteen days.

The FTC files this motion to comply with its regulations governing the treatment of confidential information submitted to the FTC in pre-complaint investigations and to give affected parties the opportunity to consider whether to ask the Court to seal portions of the Complaint on a permanent basis. The FTC is not the party claiming confidentiality with respect to information that is the subject of this Motion. The FTC conducted a pre-Complaint investigation during which it received information from Defendants and third parties that the producing persons designated as confidential pursuant to federal statute

and FTC rules. *See* 15 U.S.C. § 57b-2; 16 C.F.R. § 4.10. Certain information that Defendants and third parties designated as confidential during the FTC’s investigation may be disclosed in the Complaint that Plaintiffs filed in this action. FTC regulations require the FTC to afford persons who submit confidential information “an opportunity to seek an appropriate protective order” prior to disclosing such information. 16 C.F.R. § 4.10(g). The FTC has, accordingly, filed a redacted version of the Complaint on the public docket, filed a sealed version of Complaint with the redacted information highlighted, and filed this Motion to provide an opportunity for Defendants and third parties whose information is at issue to seek appropriate relief from the Court.

The information in the Complaint that the FTC requests be temporarily sealed may disclose the following non-public information as to which Defendants and/or third parties requested confidential treatment during the FTC’s investigation:

- details about the terms of and strategy underlying the Defendants’ “loyalty” programs at issue in this case;
- information derived from Defendants’ and third parties’ revenue, sales, and pricing data;
- information about Defendants’ business decisions, strategies, and plans;
- information about third parties’ (including Defendants’ customers and competitors) finances and business decisions, strategies, and plans;
- quotations from Defendants’ internal documents about these subjects.

The FTC will provide Defendants and third parties whose information is at issue with notice of their respective information being filed under seal and a copy of any order the Court enters with respect to this Motion.

The FTC also intends to schedule a meet and confer among the parties and third parties whose confidential information is at issue so that a LR 5.5 Report may be filed within ten days of the date of filing this Motion. *See* LR 5.4(b)(1)(b).

Dated: September 29, 2022

Respectfully submitted,

/s/ James H. Weingarten

James H. Weingarten (DC Bar No. 985070)

Geoffrey M. Green

Mark J. Woodward

Michael J. Turner

Joseph R. Baker

Wesley G. Carson

Rachel S. Frank

Elizabeth A. Gillen

Philip J. Kehl

Lauren B. Patterson

Edward H. Takashima

FEDERAL TRADE COMMISSION

600 Pennsylvania Avenue, NW

Washington, DC 20580

Telephone: (202) 326-3570

Email: jweingarten@ftc.gov

*Attorneys for Plaintiff Federal Trade
Commission*

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

FEDERAL TRADE COMMISSION,
STATE OF CALIFORNIA, STATE OF
COLORADO, STATE OF ILLINOIS,
STATE OF INDIANA, STATE OF
IOWA, STATE OF MINNESOTA,
STATE OF NEBRASKA, STATE OF
OREGON, STATE OF TEXAS, and
STATE OF WISCONSIN,

Plaintiffs,

v.

SYNGENTA CROP PROTECTION AG,
SYNGENTA CORPORATION,
SYNGENTA CROP PROTECTION,
LLC, and CORTEVA, INC.,

Defendants.

Case No. 22-cv-828

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and have verified that such filing was sent electronically using the CM/ECF system, and I hereby certify that the document will be sent to the following non-CM/ECF participants as indicated:

Ronan P. Harty (via Federal Express and email)
Paul Mishkin (via email)
Jesse Solomon (via email)
DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, NY 10017
ronan.harty@davispolk.com
paul.mishkin@davispolk.com
jesse.solomon@davispolk.com

*Attorneys for Defendants Syngenta Crop Protection AG; Syngenta Corporation;
and Syngenta Crop Protection, LLC in the FTC's pre-Complaint investigation*

David R. Marriott (via Federal Express and email)
Christine A. Varney (via email)
Margaret T. Segall (via email)
Jesse M. Weiss (via email)
CRAVATH, SWAINE & MOORE LLP
825 Eighth Avenue
New York, NY 10019
dmarriott@cravath.com
cvarney@cravath.com
msegall@cravath.com
jweiss@cravath.com

Attorneys for Defendant Corteva, Inc. in the FTC's pre-Complaint investigation

Syngenta Crop Protection AG (via Federal Express)
Rosentalstrasse 67 Basel
BASEL-STADT
4058 Switzerland

Syngenta Corp. (via Federal Express)
c/o CT Corporation System
160 Mine Lake Ct, Ste 200
Raleigh, NC 27615

Syngenta Crop Protection, LLC (via Federal Express)
c/o CT Corporation System
160 Mine Lake Ct, Ste 200
Raleigh, NC 27615

Corteva, Inc. (via Federal Express)
c/o CT Corporation System
160 Mine Lake Ct, Ste 200
Raleigh, NC 27615

/s/ James H. Weingarten
James H. Weingarten
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, NW
Washington, DC 20580
Phone: (202) 326-3570
jweingarten@ftc.gov

*Attorney for Plaintiff Federal Trade
Commission*